

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**PALM BEACH METRO, LLC and its alter  
ego METRO MOBILITY MANAGEMENT  
GROUP, LLC**

**and**

**Case 12-CA-025842**

**AMALGAMATED TRANSIT UNION,  
AFL-CIO, LOCAL 1577**

**ORDER<sup>1</sup>**

The Petitioner's petition to revoke subpoena duces tecum B-1-NIDCWD is denied.<sup>2</sup> The subpoena seeks information relevant to the matters under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Petitioner has failed to establish any other legal basis for revoking the subpoena.<sup>3</sup>

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<sup>1</sup> The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

<sup>2</sup> We reject the argument made by the Contempt, Compliance, and Special Litigation Branch (CCSLB) that the petition was untimely filed. The Board's Rules specifically provide that a subpoena be served on a recipient "either personally or by registered or certified mail or by telegraph, or by leaving a copy thereof at the principal office or place of business of the person required to be served." Sec. 102.113(c). Sec. 102.31(b) further provides that the "date of service" of the subpoena shall be the date the subpoena is received. Therefore, we agree with the Petitioner that the service date of the subpoena is not the date it was sent to the Petitioner's attorney by email (July 22, 2015), as argued by the CCSLB, but rather is July 27, 2015, the date on which the mailed subpoena was received by the Petitioner. Accordingly, the petition to revoke, which was filed on July 29, 2015, was timely. We further note that Sec. 102.111(a) of the Rules provides that when the period of time provided by the Rules is less than 7 days (as with petitions to revoke subpoenas), the intermediate Saturdays, Sundays, and holidays shall be excluded from the computation. Therefore, even if we were to find that the subpoena was properly served by email on July 22, 2015, the petition to revoke would have been timely filed on July 29, 2015.

<sup>3</sup> To the extent that the subpoena encompasses some documents that the Petitioner believes in good faith to be subject to the attorney-client privilege or the attorney work

See generally, *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., October 21, 2015.

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
LAUREN McFERRAN,	MEMBER

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product doctrine, this Order is without prejudice to the Petitioner's prompt submission of a privilege log to the Contempt, Compliance, and Special Litigation Branch identifying and describing each such document, and providing sufficient detail to permit an assessment of the Petitioner's claim of privilege or protection. The Petitioner is directed to produce all responsive documents in its possession not subject to any good-faith claim of privilege or protection.